

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6958

BILL NUMBER: HB 1660

NOTE PREPARED: Apr 4, 2003

BILL AMENDED: Apr 3, 2003

SUBJECT: Abuse of an Endangered Adult.

FIRST AUTHOR: Rep. Day

FIRST SPONSOR: Sen. C. Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X

X

GENERAL

DEDICATED

FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill removes the requirement that the State Department of Health must request assistance before the Division of Disability, Aging, and Rehabilitative Services or Adult Protective Services may investigate a report of an endangered adult residing in a health facility. The bill provides that an endangered adult is not an adult who is an alcoholic or a drug abuser. The bill makes battery that results in serious bodily injury to an endangered adult a Class B felony. It also makes battery that results in death to an endangered adult a Class A felony. The bill makes failing to report an abused endangered adult a Class B misdemeanor instead of a Class A infraction. The bill also corrects code cite references.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) This bill removes the restriction that an adult protective services unit is to investigate a report of abuse of an endangered adult who is a resident of a licensed health facility only if their assistance is requested by the Department of Health. The bill refines the definition of an endangered adult to exclude adults who abuse alcohol or drugs. The Family and Social Services Administration reports that this bill has no significant fiscal impact.

The bill adds a Class B felony of battery that results in serious bodily injury to an endangered adult. A Class B felony is punishable by a prison term ranging from 6 to 20 years depending upon mitigating and aggravating circumstances. The bill further adds a Class A felony of battery that results in the death of an endangered adult. A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years.

Explanation of State Revenues: (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A felony or a Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

The bill also increases the penalty from a Class A infraction to a Class B misdemeanor for failure to report abuse of an endangered adult. Passage of this bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. This is because fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class A infraction is \$10,000, which is deposited into the state General Fund, while the maximum fine for a Class B misdemeanor is \$1,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a court fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive additional revenue. In addition, local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. These revenues come from the following sources: (1) The county general fund would receive 27% of the court fee (\$120 for a misdemeanor and \$70 for an infraction) that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

Fiscal Analyst: Kathy Norris, 317-234-1360